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8
9 **UNITED STATES DISTRICT COURT OF NEVADA**
10 **DISTRICT OF NEVADA**
11

12 BRANDON THOMPSON, on behalf of
13 Himself and all others similarly situated,

14 Plaintiff,

15 v.

16 CREDIT ONE BANK, N.A.,

17 Defendant.

**UNOPPOSED MOTION FOR
LEAVE TO FILE JOINT
PROPOSED DISCOVERY
PLAN AND SCHEDULING
ORDER IN COMPLIANCE
WITH LOCAL RULE 26-1(b)
OUT OF TIME AND ORDER**

18 _____/ CASE NO.: 2:20-cv-00266-GMN-EJY

19 COMES NOW, the parties, by and through their undersigned counsel, and files this Motion
20 for Leave to File the Joint Proposed Discovery Plan and Scheduling Order in Compliance with
21 Local Rule 26-1(b) Out of Time, pursuant to Federal Rule of Civil Procedure 6(b)(1)(B). In
22 support of this Motion, the parties state:

- 23
- 24 1. Plaintiff filed his Class Action Complaint on February 6, 2020 (Doc. 1).
 - 25 2. Defendant filed a Motion to Stay Litigation on March 16, 2020 (Doc. 7).
 - 26 3. Plaintiff inadvertently missed the deadline for coordinating the parties scheduling
27 conference and upon realizing the error, immediately circulated a proposed scheduling plan and
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1 reached out to opposing counsel to schedule a time for the parties to discuss the proposed
2 scheduling order.

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4 4. The parties are scheduled to confer on Monday, May 11, 2020 and request an
5 extension to file the Joint Proposed Discovery Plan and Scheduling Order no later than May 15,
6 2020.

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8 5. This motion is being filed in good faith and not for the purpose of delay or
9 frustration of this cause.

10 6. On May 11, 2020 Defendant agreed to the extension requested.

11 7. The granting of this Motion will not prejudice the parties.

12 **8. MEMORANDUM OF LAW**

13 9. This Court has discretion to enlarge the time to file a responsive pleading for good
14 cause per

15
16 10. Fed. R. Civ. P. 6(b)(1). Plaintiff is respectfully requesting he be allowed to file the Joint
17 Proposed Discovery Plan and Scheduling Order in Compliance with Local Rule 26-
18 1(b) Out of Time. Federal Rules of Civil Procedure 6(b)(1)(B) also provides that the
19 Court for cause may, in its discretion, order that a period of time be enlarged if the
20 request for such enlargement is made upon motion after the expiration of the specified
21 period where the failure to act was the result of excusable neglect.

22
23 11. Excusable neglect is a flexible and somewhat forgiving notion. *Meier v. Deutsche Bank*
24 *Trust Co. Americas*, No. 2:09-CV-169-FTM-29SP, 2011 WL 1806509, at *2 (M.D.
25 Fla. May 11, 2011). The factors set forth in *Glover v. City of Pensacola*, 372 F. App'x
26 952, 955 (11th Cir. 2010), are met in this instance. Specifically: (1) there is no danger
27 of prejudice to the opposing party; (2) there is no danger of delay harmful to the judicial
28

proceedings; (3) the reason for the delay was a simple inadvertence in calendaring.

12. WHEREFORE, the parties respectfully request that this Honorable Court grant the Motion for Leave to File the Joint Proposed Discovery Plan and Scheduling Order in Compliance with Local Rule 26-1(b) Out of Time.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed via the Court's CM/ECF system this 11th day of May, 2020, to all parties of record.

Respectfully submitted,

/s/ Heather H. Jones

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ORDER

IT IS ORDERED that the Parties shall file the Joint Scheduling Report on or before May 15, 2020.


UNITED STATES MAGISTRATE JUDGE

Dated: May 12, 2020